XIIHC—78

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक G.A. 851 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	APPELLANTS: (In Jail)	1. Chandan Nagesia, S/o Bhola Nagesia, Aged about 22 years. 2. Lori @ Boodharam, S/o Totri Kanwar, Aged about 40 years, Both residents of Village: Laingu Saja, Bhavna Para, P.S. Batauli, Distt. Surguja (C.G.)
		- Versus -
	RESPONDENT:	State of Chhattisgarh, Through the In-charge, Police Station: Batauli, Distt. Surguja (C.G.)
	{Criminal appeal under Section 374 (2) Cr.P.C.}	
	Division Bench: **Hon'ble Mr. L.C. Bhadoo and** **Hon'ble Mr. Sunil Kumar Sinha, JJ.**	
	26-10-2007 Mr. Vishnu Koshta, counsel for the appellant. Mr. Ravindra Agrawal, Panel Lawyer for the State/respondent. Oral judgment dictated on Dais.	
	L.C. Bhadoo, J: - This appeal has been preferred by accused Chandan Nagesia & Lori @ Boodharam through the Superintendent, Central Jail, Ambikapur, against the judgment of conviction and order of sentence dated 7-10-1996 passed by the Sessions Judge, Ambikapur in Sessions Trial No.248/95, whereby and whereunder learned Sessions Judge has convicted each of the accused for commission of offence under Section 302 read with Section 34 of the I.P.C. for	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक G.A.851/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

committing the murder of Basant and sentenced each of them to undergo imprisonment for life.

As the accused persons are unrepresented, we appointed Mr. Vishnu Koshta, Advocate, to represent the accused/appellants and argue this appeal. Time was given to Mr. Vishnu Koshta to go through the record and original record was given to him. He prepared the case and thereafter, we heard learned counsel for the parties.

This appeal is barred by 3,939 days' delay, as per the Office report.

Having heard learned counsel for the parties, we have perused the record.

Case of the prosecution is that on 5-7-1995 at about 8 p.m. Basant (since deceased) went near the house of accused/appellant Lori and demanded tobacco from him. He entered into altercation with Lori and co-accused persons Chandan Nagesia & Gulabi Bai, at that time, the accused/appellants attacked the deceased with Tabbal, axe, Bahinga & Lathi as a result of which he succumbed to the injuries sustained by him. Body of Basant was sent for post-mortem examination to Primary Health Centre, Batauli where Dr. S.P. Gupta (PW-6) conducted post-mortem and noticed as many as five incised wounds, two bruises, one swelling on left jaw and fracture of jaw, even tooth were not present, his 2nd, 3rd & 4th ribs were fractured. The doctor has opined that cause of death was multiple injuries on head and other injuries. The deceased died as a result of syncope & haemorrhage, death was homicidal in nature.

Sukhan (PW-2) is the eyewitness who has categorically stated that accused Lori @ Boodharam & Chandan Nagesia attacked the deceased with Tabbal & Lathis and they ran away. In cross-examination of this witness,

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	defence has not been able to elicit any circumstance which discredits the evidence of this witness. In view of the above medical and ocular evidence, it is established that the accused persons were authors of the crime in question and we do not find any illegality or infirmity in the judgment of the trial Court. This appeal is devoid of merit. Therefore, this appeal is dismissed on the ground of delay as well as on merits. Consequently, I.A.No.1 stands disposed of. Copy of the judgment be sent to the appellants through the Superintendent, Central Jail, Ambikapur. **Sd/-** **L.C. Bhadoo** **Judge**	**Sd/-** **Sunil Kumar Sinha** **Judge**
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